

REMARKS

Reconsideration and withdrawal of the rejection and allowance of the claims are respectfully requested in view of the foregoing amendments and the following remarks.

Initially, supplemental to the Amendment to Office Action filed November 15, 2007, enclosed herewith are the three (3) original expert declarations previously referred to for John Alexandre Boudry, Andrea Ticci, and James Thompson.

Applicant's attorney wishes to thank Examiner Nguyen for her courtesy in granting the personal interview to Applicant's attorney on December 14, 2007. Although no agreement was reached, Applicant wishes to thank the Examiner for consideration of Applicant's position in regard to this matter as previously set forth and as more fully incorporated in the remarks set forth in the previous amendment and in the following remarks.

To simplify review of the claims, the same has been amended to limit the application to only one independent claim for each of the embodiments of the invention claimed. As can be seen, there is currently only one independent claim for the fitting, the method, the subterranean fuel tank and the fuel pump. This required a slight change in the main independent claims in defining the "only" one side as "at least" one side of the flange so as to provide the basis for the other formerly independent claims which refer to the tubular sleeve as being positionable on "either side" of the flange. In particular, former independent Claims 54 and 63 which relate to the fitting have

now been made dependent claims which refer back to independent Claim 22. Similarly, independent Claim 60 has now been made a dependent claim referring back to Claim 22. In addition, former independent Claim 62 directed to a fuel pump is now directed to independent Claim 39 and former Claim 61 directed to the subterranean fuel tank is now dependent upon independent Claim 38.

As the Examiner will note, the claims have been further limited to the employment of a rigid fitting for use in a petroleum forecourt installation used in the petroleum industry. The same is now defined as providing a substantially fluid-tight seal between an opening in a generally upright and planar subterranean chamber wall and a fuel pipe passing through said opening. The flange is further defined as having a generally planar first surface which is configured to directly contact the chamber wall around substantially the whole circumference of the opening via substantially the whole first surface of the flange. In addition, minor amendments have been made to Claims 26 and 28 to place them in better US format and the remaining claims have been otherwise amended to place the various embodiments in general conformity with one another, as discussed above.

Before turning to the 103 rejection of the claims, Applicant respectfully directs the Examiner to the two declarations previously submitted and the new declaration discussed at the interview of Dr. Andrea Ticci.

Dr. Andrea Ticci has been the Engineering Director of PetroTechnik Limited (the Assignee of the patent application) since 2006, but prior to that time she was employed by another company where she also held the position of Engineering Director

from 2002 until 2006 which company was a direct competitor of PetroTechnik in the container piping market for the storage and transfer of flammable liquids underground.

Dr. Ticci states that PetroTechnik was the first company to use polyethylene pipe for the petroleum market (§3) and in both her prior and current positions she is well aware of the problems associated with forming fluid-tight seals between a chamber wall and pipes for containment systems passing through the chamber walls. She has also reviewed the references cited in the Office Action and indicates that she believes that when arriving at the conclusion of obviousness, the Examiner was not in possession of all of the relevant facts, including widely held prejudices in the industry and as a consequence, reached an incorrect conclusion as to obviousness (§5).

Dr. Ticci refers to the fact that there was a widely held misconception in the industry that it would not be possible to form a strong durable electrofusion seal between a chamber wall and the flange of a fuel pipe because the components are normally formed from different density (low and high) polyethylene and such bonding would not result in a good seal (§7). The inventors in this application have dispelled this misconception.

Dr. Ticci also stated that one skilled in the art would have to consider the proposed combination of the teachings of Rowe and Evans to be misdirected and, in fact that anyone in the industry would consider such a move to be destined to fail (§8). Dr. Ticci also refers to other misconceptions in the industry which would direct away from considering any type of electrofusion in a fitting such as those described by Rowe (§9).

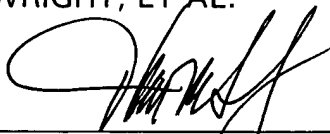
Moreover, Dr. Ticci refers to the fact that the type of fitting described by Gavin, with an internal seal with a pipe passing through the fitting is an entirely unsuitable starting point for the design of any fitting to be used in the petroleum industry (§10-12). Dr. Ticci concludes that even those highly skilled in the art such as herself, even after becoming aware of the inventive fitting, did not believe that it would work for all of the reasons set forth in her declaration. But she indicates that they were all wrong and that the inventive fittings are a huge commercial success, contrary to all the prejudices in the petroleum industry (§13).

These conclusions are supported by the other two declarations discussed in Applicant's previous amendment. They all point to the fact that those skilled in the art, even those of the highest skill in the art, would not be lead by the teachings of the cited art to the invention as now claimed. Clearly, the method aspects of the invention would specifically require the step of employing such a fitting in the petroleum industry and nowhere is this suggested in any of the art cited by the Examiner. Moreover, the specific fitting, subterranean fuel tank and fuel pump are not disclosed nor suggested by the waste water pipes of Gaven nor the teachings of Rowe which in fact, teaches against the present invention. Nor Carlesimo which relates to an underground sewer installation.

For the above reasons it is respectfully submitted that the claims, as now amended, are patentably distinguishable over the references of record and reconsideration and withdrawal of the rejection and allowance of the claims at an early date is earnestly solicited.

Respectfully submitted,

WRIGHT, ET AL.



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Enclosures: Declaration of John A. Boudry (w/Exh. A)
Declaration of Andrea Ticci
Declaration of James Thompson
Postcard

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